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 ConocoPhillips Company

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

HOUTAN PETROLEUM, INC.

Plaintiff,

vs.

CONOCOPHILLIPS COMPANY, a Texas
 corporation and DOES 1 through 10,
 Inclusive

Defendants.

Case No. 3:07-cv-5627

**CONOCOPHILLIPS COMPANY'S
 NOTICE OF MOTION AND MOTION FOR
 SUMMARY JUDGMENT OF
 PLAINTIFF'S COMPLAINT**

Date: May 9, 2008
Time: 10:00 a.m.
Courtroom: 1
Before: Hon. Samuel Conti

Accompanying Documents:

- 1) Memorandum of Points and Authorities**
- 2) Declaration of Jonathan A. Eldredge**

TO PLAINTIFF HOUTAN PETROLEUM, INC., AND ITS ATTORNEYS OF
 RECORD:


PLEASE TAKE NOTICE that on May 9, 2008, at 10:00 a.m., or as soon thereafter as the
 matter may be heard by the above-entitled Court, located at 450 Golden Gate Avenue, San
 Francisco, California, Defendant ConocoPhillips Company ("ConocoPhillips") will bring on for
 hearing this motion for summary judgment pursuant to Federal Rule of Civil Procedure, Rule 56.
 Said motion is made on the grounds that: (1) ConocoPhillips terminated the parties' franchise

1 agreement timely and for a legitimate reason under the Petroleum Marketing Practices Act (the
2 “PMPA”) and Plaintiff failed to demand a “bona fide offer” from ConocoPhillips to sell its
3 equipment and improvements at the subject service station to Plaintiff within the time required
4 by the PMPA, and therefore ConocoPhillips is entitled to judgment as a matter of law as to
5 Count I; and (2) ConocoPhillips is entitled to judgment as a matter of law as to Count II for
6 declaratory relief because it addresses past conduct, rather than the prospective rights of the
7 parties, and in any event is redundant of, and therefore fails as a matter of law for the same
8 reasons as, Plaintiff’s PMPA claim.

9 This motion is based upon this Notice of Motion and Motion, the Declaration of Jonathan
10 A. Eldredge and the Memorandum of Points and Authorities submitted herewith, all orders,
11 pleadings and papers on file in this action, and upon such other matters of which the Court may
12 take judicial notice or which may be presented to the Court at the time of hearing.

13 Dated: April 4, 2008

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By 
Attorneys for Defendant
ConocoPhillips Company